THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.9703 of 2007

DATED: 12.07.2007

Between:

Kattula Bebi Sarojini and others

.. Petitioners

And

The District Collector (Land Acquisition)
Yerrakalva Project, West Godavari District,
and another. .. Respondents

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No.9703 of 2007

ORDER:

In this writ petition, the petitioners seek a writ of Mandamus to declare the action of the respondents in not re-determining the compensation as per Section 28-A of the Land Acquisition Act and not paying such compensation as illegal and arbitrary, with a consequential direction to the respondents to pay the compensation at the rate of Rs.22,000/- per acre with statutory benefits to the petitioners for acquiring their lands.

2. In the affidavit filed in support of the writ petition, it is stated that the lands of the petitioners situated at Devulapalli village, Kottur Mandal, West Godavari District, were notified for acquisition under the provisions of the Land Acquisition Act, 1894 (for short 'the Act') for formation of Vengalraya Sagar Reservior in the year 1979. Notifications to that effect were issued in the year 1977, and ultimately, compensation was determined by Award No.3/79, dated 31.03.1979, and Award No.8/79, dated 12.10.1979, fixing the compensation at the rate of Rs.2,000/- per acre for dry lands and Rs.4,000/- per acre for wet lands. Aggrieved by the said fixation of compensation, some of the land owners have sought reference under Section 18 of the Act. The Reference Court enhanced the compensation in O.P.No.57 of 1980 and batch by judgment, dated 21.04.1982, from Rs.2,000/- to Rs.5,000/- per acre for dry lands and from Rs.4,000/- to Rs.10,000/- for

wet lands. Aggrieved by the same, further matters are carried in appeal to this Court by the Government in AS.Nos.885 of 1983 and batch, in which some of the claimants filed cross objections. It is stated that AS.No.885 of 1983 and batch with cross objections filed by the claimants were disposed of by this Court by modifying the decree and judgment of the Court below enhancing the compensation to Rs.22,000/- per acre by judgment, dated 29.11.1989.

It is the grievance of the petitioners that coming to know of the said enhancement by allowing the cross objections of the claimants in AS.No.885 of 1983, the petitioners in this writ petition have preferred applications under Section 28-A of the Act on 17.02.2007 and on 30.03.2007. However, the said applications of the petitioners to extend the same benefit to them, which was paid to the cross objectors in AS.No.885 of 1983 and batch, have not been received.

3. Under Section 28-A of the Act, the Court allows to the applicant any amount of compensation in excess of the amount awarded by the Collector, the persons interested in all the other land covered by the same notification can make an application to the Collector for re-determination of the compensation, but, however, the said applications shall be filed within a period of three months excluding the period for obtaining the certified copy of the award.

4. In the present case, the petitioners have not submitted any applications within the prescribed time. Even AS.No.885 of 198 and batch along with cross objections were decided by this Court as early as on 29.11.1989. The petitioners have come up with the applications under Section 28-A of the Act nearly after more than 15 years of the disposal of the appeal by this Court.

5. Though the petitioners' counsel relied on the judgment of this Court in W.P.No.4243 of 2001, dated 13.03.2001, but however, in that case, there were no directions for re-determination of the compensation, and on the other hand, this Court directed the respondents therein to consider and dispose of the representation of the petitioners therein, if any, seeking extension of the same benefit as obtained by the other similarly placed persons. Further, this Court in the said writ petition has specifically observed that nothing in that order shall be construed as an expression on the merits or entitlement of the petitioners therein to the relief they sought for in that writ petition.

6. In the instant case, it is not in dispute that the petitioners have moved for the first time for re-determination of the compensation under Section 28-A of the Act in the year 2007.

In that view of the matter, there are absolutely no reasons to entertain this writ petition nearly after more than fifteen years of time, and the writ petition is devoid of merit.

7. Accordingly, the writ petition is dismissed. No order as to costs.

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(R.SUBHASH REDDY,J)

Dt.12.07.2007
v v